

SENATE BILL No. 195

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; IC 8-9.5-9-2; IC 13-11-2; IC 13-15-4-10; IC 13-17.5; IC 13-18.

Synopsis: Environmental assistance authority. Establishes the environmental assistance authority to administer the wastewater revolving loan program, the drinking water revolving loan program, and the supplemental drinking water and wastewater assistance fund and program. Transfers powers and duties of the agencies that currently administer those programs to the Indiana bond bank and the authority. Expands the definition of "participant" for purposes of the wastewater revolving loan fund and program to include entities permitted by law to enter into contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act (in addition to political subdivisions). Makes conforming changes. Repeals provisions concerning certain duties with respect to the administration of the programs and funds that are transferred to the authority.

Effective: July 1, 2002.

Gard

January 7, 2002, read first time and referred to Committee on Environmental Affairs.



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 195

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.204-2001,
2 SECTION 6, AS AMENDED BY P.L.287-2001, SECTION 1, AND
3 AS AMENDED BY P.L.283-2001, SECTION 1, IS AMENDED AND
4 CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
5 2002]: Sec. 37.1. (a) This section applies to a rulemaking action
6 resulting in any of the following rules:

7 (1) An order adopted by the commissioner of the Indiana
8 department of transportation under IC 9-20-1-3(d) or
9 IC 9-21-4-7(a) and designated by the commissioner as an
10 emergency rule.

11 (2) An action taken by the director of the department of natural
12 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

13 (3) An emergency temporary standard adopted by the
14 occupational safety standards commission under
15 IC 22-8-1.1-16.1.

16 (4) An emergency rule adopted by the solid waste management
17 board under IC 13-22-2-3 and classifying a waste as hazardous.



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(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

~~(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.~~

~~(9)~~ (8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

~~(10)~~ (9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

~~(11)~~ (10) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

~~(12)~~ (11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

~~(13)~~ (12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

~~(14)~~ (13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

~~(15)~~ (14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

~~(16)~~ (15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

~~(17)~~ (16) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

~~(18)~~ (17) An emergency rule adopted by the *alcoholic beverage alcohol and tobacco* commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

~~(19)~~ (18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

~~(20)~~ (19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

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~~(21)~~ **(20)** An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14)~~, **(a)(13)**, the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under

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subsubsection ~~(a)(14)~~ **(a)(13)** may be extended for two (2) extension periods. Except for a rule adopted under subsubsection ~~(a)(14)~~; **(a)(13)**, for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsubsection (a)(6), ~~(a)(9)~~; **(a)(8)**, or ~~(a)(13)~~ **(a)(12)** expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2, ~~or~~ IC 8-9.5 through IC 8-23, **or IC 13-17.5;**

(2) the commission established under IC 4-13.5.

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; or

(4) a fund or program established under IC 13-18-13 or IC 13-18-21.

SECTION 3. IC 13-11-2-16, AS AMENDED BY P.L.14-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of IC 13-19-5, refers to the Indiana development finance authority created under IC 4-4-11.

(c) "Authority", for purposes of IC 13-17.5, IC 13-18-13, and IC 13-18-21, refers to the environmental assistance authority established by IC 13-17.5-1-1.

SECTION 4. IC 13-11-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 16.5. "Authorized borrower", for purposes of IC 13-17.5, means:**

(1) a participant (as defined in section 151.1 of this chapter);

(2) a state educational institution (as defined in IC 20-12-0.5-1);

(3) a leasing body (as defined in IC 5-1-1-1(a));



- (4) a not-for-profit utility (as defined in IC 8-1-2-125);
- (5) the Indiana bond bank;
- (6) a local public improvement bond bank established by IC 5-1.4-2-1;
- (7) any commission, authority, or authorized body of any authorized borrower;
- (8) any organization, association, or trust with members, participants, or beneficiaries that are all individually authorized borrowers; or
- (9) any body corporate and politic, body corporate or politic, commission, authority, or instrumentality of the state.

SECTION 5. IC 13-11-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) "Board", except as provided in subsections (b) through ~~(j)~~; **(k)**, refers to:

- (1) the air pollution control board;
- (2) the water pollution control board; or
- (3) the solid waste management board.

(b) "Board", for purposes of IC 13-13-6, refers to the northwest Indiana advisory board.

(c) "Board", for purposes of IC 13-17, refers to the air pollution control board.

(d) "Board", for purposes of IC 13-17.5, refers to the board of directors of the environmental assistance authority.

~~(e)~~ (f) "Board", for purposes of IC 13-18, refers to the water pollution control board.

~~(e)~~ (f) "Board", for purposes of:

- (1) IC 13-19;
- (2) IC 13-20, except IC 13-20-18;
- (3) IC 13-22;
- (4) IC 13-23, except IC 13-23-11;
- (5) IC 13-24; and
- (6) IC 13-25;

refers to the solid waste management board.

~~(f)~~ (g) "Board", for purposes of IC 13-20-18, refers to the board of managers of the Indiana institute on recycling.

~~(g)~~ (h) "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

~~(h)~~ (i) "Board", for purposes of IC 13-23-11, refers to the underground storage tank financial assurance board.

~~(i)~~ (j) "Board", for purposes of IC 13-26, refers to the board of trustees of a regional water, sewage, or solid waste district.

~~(j)~~ (k) "Board", for purposes of IC 13-27 and IC 13-27.5, refers to

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the clean manufacturing technology board.

SECTION 6. IC 13-11-2-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 18.5. "Bond", for purposes of IC 13-17.5, means a bond issued or assumed by the Indiana bond bank under IC 5-1.5 and issued for the benefit of the environmental assistance authority under IC 13-17.5.**

SECTION 7. IC 13-11-2-83, AS AMENDED BY P.L.132-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13 **and IC 13-18-21**, refers to an agreement between:

(1) the ~~budget agency~~; **authority**; and

(2) a ~~political subdivision~~; **participant**;

establishing the terms and conditions of a loan or other financial assistance, including **a guaranty or** forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision~~; **participant**.

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) ~~"Financial assistance agreement", for purposes of IC 13-18-21,~~ refers to an agreement between:

(1) the ~~budget agency~~; and

(2) a ~~participant~~;

establishing the terms and conditions of a loan or other financial assistance; including forgiveness of principal if allowed under federal law; by the state to the ~~participant~~.

SECTION 8. IC 13-11-2-85.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 85.3. "Financial institution", for purposes of IC 13-17.5, has the meaning set forth in IC 28-1-1-3.**

SECTION 9. IC 13-11-2-93.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 93.5. "Guaranty", for purposes of IC 13-17.5, means a guaranty issued or made by the environmental assistance authority under IC 13-17.5.**

SECTION 10. IC 13-11-2-107.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 107.5. "Indiana bond bank", for**

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purposes of this chapter, IC 13-17.5, IC 13-18-13, and IC 13-18-21, means the Indiana bond bank established by IC 5-1.5.

SECTION 11. IC 13-11-2-142.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 142.5. "Note", for purposes of IC 13-17.5, means a note issued or assumed by the Indiana bond bank under IC 5-1.5 and issued for the benefit of the environmental assistance authority under IC 13-17.5.

SECTION 12. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 151.1. (a) "Participant", for purposes of IC 13-18-13 and IC 13-17.5, means a political subdivision or any person, association, trust, or other entity permitted by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.

(b) "Participant", for purposes of this chapter and IC 13-18-21 and IC 13-17.5, means:

- (1) a political subdivision; or
- (2) any other owner or operator of a public water system;

except as provided by subsection (c).

(c) "Participant", for purposes of IC 13-18-21-21 through IC 13-18-21-29 and IC 13-17.5, means a:

- (1) political subdivision or other entity described in subsection (a), with respect to a wastewater or storm water collection and treatment system or any other undertaking designed to improve water quality or abate water pollution; or
- (2) political subdivision or an owner or operator described in subsection (b), with respect to a public water system.

SECTION 13. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

- (1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:
 - (A) do not contain adequate information for the department to process the application; or
 - (B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2)

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1 notices of deficiency are issued on an application, the period may
 2 not be suspended unless the applicant agrees in writing to defer
 3 processing of the application pending the applicant's response to
 4 the notice of deficiency. A notice of deficiency may include a
 5 request for the applicant to conduct tests or sampling to provide
 6 information necessary for the department to process the
 7 application. If an applicant's response does not contain complete
 8 information to satisfy all deficiencies described in a notice of
 9 deficiency, the department shall notify the applicant not later than
 10 thirty (30) working days after receiving the response. The
 11 commissioner shall resume processing the application, and the
 12 period described under sections 1 through 6 of this chapter
 13 resumes on the earlier of the date the department receives and
 14 stamps as received the applicant's complete information or the
 15 date marked by the department on a certified mail return receipt
 16 accompanying the applicant's complete information.

17 (2) The commissioner receives a written request from an
 18 applicant to:

19 (A) withdraw; or

20 (B) defer processing of;

21 the application for the purposes of resolving an issue related to a
 22 permit or to provide additional information concerning the
 23 application.

24 (3) The department is required by federal law or by an agreement
 25 with the United States Environmental Protection Agency for a
 26 federal permit program to transmit a copy of the proposed permit
 27 to the administrator of the United States Environmental Protection
 28 Agency for review and possible objections before the permit may
 29 be issued. The period described under sections 1 through 6 of this
 30 chapter shall be suspended from the time the department submits
 31 the proposed permit to the administrator for review until:

32 (A) the department receives the administrator's concurrence or
 33 objection to the issuance of the proposed permit; or

34 (B) the period established in federal law by which the
 35 administrator is required to make objections expires without
 36 the administrator having filed an objection.

37 (4) A board initiates emergency rulemaking under
 38 ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period
 39 described under sections 1 through 6 of this chapter.

40 SECTION 14. IC 13-17.5 IS ADDED TO THE INDIANA CODE
 41 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
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**ARTICLE 17.5. ENVIRONMENTAL ASSISTANCE
AUTHORITY**

Chapter 1. Establishment and Organization

Sec. 1. There is established the environmental assistance authority, a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this article, but not a state agency. The authority is separate from the state in its corporate and sovereign capacity. The purpose of the authority is to carry out the purposes of this article, IC 13-18-13, and IC 13-18-21 by administering the wastewater revolving loan program, the drinking water revolving loan program, and the supplemental drinking water and wastewater assistance fund and program.

Sec. 2. (a) There is established a board of directors to govern the authority. The powers of the authority are vested in the board.

(b) The board is composed of:

- (1)** the governor or the governor's designee, who shall serve as chairperson;
- (2)** the treasurer of state or the treasurer's designee;
- (3)** the budget director or the budget director's designee;
- (4)** the commissioner of the department of environmental management or the commissioner's designee; and
- (5)** five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

- (1)** must be a resident of Indiana;
- (2)** serves for a term of three (3) years and until the director's successor is appointed and qualified;
- (3)** is eligible for reappointment;
- (4)** is not entitled to receive the minimum salary per diem provided in IC 4-10-11-2.1(b) while performing the director's duties but is entitled to the same reimbursement for traveling expenses and other expenses actually incurred in connection with the director's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency; and
- (5)** may be removed from the board by the governor and serves at the governor's pleasure.

(d) Not more than three (3) of the directors appointed by the governor may be members of the same political party.

(e) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired



term only.

Sec. 3. The board shall:

- (1) elect one (1) of its members vice chairperson;
- (2) appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer;
- (3) appoint and fix the duties and compensation of a program representative to take official action on behalf of the authority as authorized by trust indentures and other agreements entered into by the authority; and
- (4) establish and maintain the office of the authority in Indianapolis.

The board may designate the executive director to serve as program representative or may select another individual to serve in that position.

Sec. 4. Five (5) directors constitute a quorum at any meeting of the board.

Sec. 5. Action may be taken by the board at a meeting by the affirmative vote of at least five (5) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.

Sec. 6. (a) This section applies to a meeting of the board at which at least five (5) directors are physically present at the place where the meeting is conducted.

(b) A director may participate in a meeting of the board by using a means of communication that permits:

- (1) all other directors participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A director who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each director who:

- (1) was physically present at the place where the meeting was conducted;
- (2) participated in the meeting by using a means of communication described in subsection (b); and
- (3) was absent.

Sec. 7. (a) Each director and the executive director must execute a surety bond in an amount specified by the treasurer of state.

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Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. Instead of these surety bonds, the authority may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the authority.

(b) The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

(c) The cost of the surety bonds required by this section shall be paid by the authority.

Sec. 8. (a) Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if the director:

(1) has or, to the director's knowledge, may have or may later acquire a direct or indirect pecuniary interest in a contract with the authority; or

(2) is an officer, a member, a manager, a director, or an employee of or has an ownership interest in any firm, limited liability company, or corporation that is or may be a party to the contract;

if the director discloses in writing to the authority or for recording in the minutes of a meeting of the board the nature and extent of the interest as soon as the director has knowledge of the interest and abstains from discussion, deliberation, action, and voting with respect to the contract.

(b) Notwithstanding any provision of this article or any other law, a contract or transaction shall not be void or voidable because of the existence of an interest described in subsection (a) if the provisions of subsection (a) have been satisfied.

Sec. 9. The executive director appointed under section 3 of this chapter shall, in addition to other duties fixed by the directors, administer, manage, and direct the employees of the authority. The executive director shall approve all amounts for salaries, allowable expenses of the authority or of any employee or consultant of the authority, and expenses incidental to the operation of the authority. The executive director shall attend the meetings of the board, keep a record of the proceedings of the board, and maintain all books, documents, and papers filed with the authority, the minutes of the board, and the authority's official seal. The executive director may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that those copies are true copies, and all persons dealing with the authority may rely upon those certificates.

Sec. 10. (a) The authority shall:



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1 (1) adopt a policy establishing a code of ethics for its
2 employees; or

3 (2) decide to be under the jurisdiction and rules adopted by
4 the state ethics commission.

5 (b) A code of ethics adopted under this section must be
6 consistent with state law.

7 **Chapter 2. Powers and Duties**

8 **Sec. 1.** The authority is granted all powers necessary,
9 convenient, or appropriate to carry out and effectuate its public
10 and corporate purposes, including, but not limited to, the
11 following:

12 (1) Have a perpetual existence as a body politic and corporate
13 and an independent instrumentality, but not a state agency,
14 exercising essential public functions.

15 (2) Sue and be sued.

16 (3) Adopt and alter an official seal.

17 (4) Make and enforce bylaws and guidelines for the conduct
18 of its business and for the use of its services and facilities,
19 which may be adopted by the authority without complying
20 with IC 4-22-2.

21 (5) Acquire, hold, use, and dispose of its income, revenues,
22 funds, and money.

23 (6) Acquire, rent, lease, hold, use, and dispose of property for
24 its purposes.

25 (7) Fix and periodically revise and charge and collect fees and
26 charges for the use of its services or facilities.

27 (8) Accept gifts or grants of property, funds, money,
28 materials, labor, supplies, or services from the United States,
29 any governmental unit, or any person, carry out the terms or
30 provisions or make agreements with respect to the gifts or
31 grants, and do all things necessary, useful, desirable, or
32 convenient in connection with procuring, accepting, or
33 disposing of the gifts or grants, including entering into grant
34 and operating agreements with the United States
35 Environmental Protection Agency.

36 (9) Do anything authorized by this article, through its officers,
37 agents, or employees or by contracts with a person.

38 (10) Procure insurance against any losses in connection with
39 its property, operations, or assets in amounts and from
40 insurers as it considers desirable.

41 (11) Cooperate with and exchange services, personnel, and
42 information with any federal, state, or local governmental

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agency, including an authorized borrower.

Sec. 2. The authority may:

(1) make, enter into, and enforce all contracts and other agreements necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a loan or guaranty to or a lease or an agreement with an authorized borrower; or

(B) the performance of its duties and execution of any of its powers under this article;

(2) purchase, acquire, or hold securities or other investments for the authority's own account or for an authorized borrower at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable;

(3) prescribe the form of application or procedure required of an authorized borrower for a loan or guaranty, fix the terms and conditions of the loan, and enter into agreements with authorized borrowers with respect to loans;

(4) charge for its costs and services in review or consideration of a proposed loan or guaranty to an authorized borrower, whether the loan or guaranty is made; and

(5) appoint and employ general or special counsel, accountants, financial advisers or experts, and all other such or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article.

The authority shall not be considered to have engaged in any acts prohibited by this chapter in performing any duty or exercising any power described in this section, IC 13-18-13, or IC 13-18-21.

Sec. 3. Money not being used to purchase securities may be invested and reinvested by the Indiana bond bank pending the disbursements of that money:

(1) as provided in a resolution of the Indiana bond bank or in a trust agreement or indenture entered into by the Indiana bond bank under IC 5-1.5; or

(2) in an account established under IC 13-18-13-2(e) or IC 13-18-21-2(e).

Sec. 4. (a) The authority shall have an audit of its books and accounts made at least once in each year by a certified public accounting firm or the state board of accounts, as determined by the authority. The cost of the audit shall be considered an expense

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of the authority, and a copy of the audit shall be made available to the public.

(b) The authority shall submit a report of its activities for each fiscal year to the budget committee and the legislative services agency before November 1 of the calendar year in which the authority's fiscal year ends. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

Sec. 5. The board shall adopt, on either a calendar or fiscal year basis, an annual budget, which may be amended periodically during the year.

Sec. 6. All expenses incurred in carrying out this article are payable solely from revenues available under section 3 of this chapter or funds appropriated under this article, and nothing in this article authorizes the authority to incur an indebtedness or liability on behalf of or payable by the state.

Sec. 7. All meetings of the authority shall be open to the public in accordance with and subject to the limitations of IC 5-14-1.5. All records of the authority shall be subject to the requirements of IC 5-14-3.

SECTION 15. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter. **The Indiana bond bank shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) ~~The treasurer of state~~ **Indiana bond bank** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **Indiana**



bond bank may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a ~~political subdivision~~ **participant**;
- (4) the Indiana bond bank; ~~or~~
- (5) **the authority**; or
- (6) any person to which **the authority**, the department, the budget agency, or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

The ~~state board of finance~~ **Indiana bond bank** must approve any trust agreement or indenture before execution **and any disbursement from a fiduciary account or a trust agreement or indenture.**

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

~~(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.~~

~~(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.~~

SECTION 16. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. **(a)** Money in the fund may be used, **with the approval of the Indiana bond bank**, to do the following:

- (1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.
- (2) Pay the cost of administering the fund and the program.
- (3) Conduct all other activities that are permitted by the federal Clean Water Act.

(b) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 17. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The ~~department~~ **authority** shall do the following:



(1) Manage all aspects of the program, **the supplemental fund,** and **the** supplemental program ~~except as provided under section 6 of~~ **in accordance with** this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~

(3) Cooperate with **the department and** the budget agency in the administration and management of the program and supplemental program **and**

~~(4) Cooperate with the budget agency~~ in preparing and providing program information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program or supplemental program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The federal Clean Water Act.

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency,~~ the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency, Accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency,~~ annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10)~~ **(9)** Submit the reports prepared under subdivision ~~(9)~~ **(8)** to the governor, ~~and the general assembly.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~

~~(B) The program.~~

~~(C) The supplemental fund.~~

~~(D) The supplemental program.~~



the budget committee, and the legislative services agency.

(10) Be the point of contact with participants and other interested persons in preparing and providing program information.

(11) Prepare or cause to be prepared each financial assistance agreement.

(12) Sign each financial assistance agreement.

(13) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

SECTION 18. IC 13-18-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) ~~bond~~ **general** counsel;

(D) other special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed in subdivision (1) from money:

(A) available in the fund or supplemental fund; or

(B) otherwise made available for the program or the supplemental program.

(3) Enter into memoranda of understanding with the department, the Indiana bond bank, and the budget agency concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 19. IC 13-18-13-8 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The ~~department~~
2 ~~and the budget agency authority~~ may:

3 (1) ~~provide services to a political subdivision in connection with~~
4 ~~a loan or other financial assistance, including advisory and other~~
5 ~~services; and~~

6 (2) ~~(1)~~ charge a fee for services provided; **and**

7 ~~(b) The department and the budget agency may~~

8 (2) charge a fee for costs and services incurred in the review or
9 consideration of an application for a proposed loan or other
10 financial assistance to or for the benefit of a ~~political subdivision~~
11 **participant** under this chapter, regardless of whether the
12 application is approved or rejected.

13 ~~(c) (b)~~ A ~~political subdivision~~ **participant** may pay fees charged
14 under this section.

15 SECTION 20. IC 13-18-13-9 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) The ~~department~~
17 **authority** shall use a priority ranking system ~~to recommend in making~~
18 loans or other financial assistance from the fund. The ~~department~~
19 **authority** shall develop the priority ranking system to achieve
20 optimum water quality consistent with the water quality goals of the
21 state and the federal Clean Water Act.

22 (b) ~~Based on the recommendations made under subsection (a), the~~
23 ~~budget agency may make loans and provide other financial assistance~~
24 ~~from the fund to or for the benefit of political subdivisions:~~

25 SECTION 21. IC 13-18-13-10 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The ~~budget agency~~
27 **authority** may make loans or provide other financial assistance from
28 the fund to or for the benefit of a ~~political subdivision~~ **participant**
29 under the following conditions:

30 (1) The loan or other financial assistance must be used:

31 (A) for planning, designing, constructing, renovating,
32 improving, or expanding wastewater collection and treatment
33 systems, **for any purpose eligible for assistance under the**
34 **federal Clean Water Act, and for other activities necessary**
35 **or convenient to complete these tasks;**

36 (B) to:

37 (i) establish **guaranties**, reserves, or sinking funds,
38 **including guaranties, reserves, or sinking funds to secure**
39 **and pay, in whole or in part, loans or other financial**
40 **assistance made from sources other than the fund**
41 **(including financial institutions) for a purpose permitted**
42 **by clause (A); or**



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(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3) (2) The budget agency authority shall establish the terms and conditions that the budget agency authority considers necessary or convenient to:~~

~~(A) make loans; or~~

~~(B) provide other financial assistance under this chapter.~~

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from or in addition to requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 22. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by ~~the budget agency.~~
IC 5-1.5-4 and IC 5-1.5-8.

(2) Unless otherwise provided by ~~rule~~, **the guidelines agreed to by the authority and the Indiana bond bank**, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any

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1 security for the loan or other financial assistance; or
 2 (ii) if litigation is pending, the litigation will not have a
 3 material adverse effect on the validity of the loan or other
 4 financial assistance or any security for the loan or other
 5 financial assistance.

6 (D) If litigation is pending, as an alternative to the certification
 7 described in clause (C), an opinion of legal counsel that the
 8 litigation will not have a material adverse effect on the validity
 9 of the loan or other financial assistance.

10 SECTION 23. IC 13-18-13-12 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. A ~~political~~
 12 ~~subdivision~~ **participant** receiving a loan or other financial assistance
 13 from the fund shall enter into a financial assistance agreement. A
 14 financial assistance agreement is a valid, binding, and enforceable
 15 agreement of the ~~political subdivision~~ **participant**.

16 SECTION 24. IC 13-18-13-13 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. The ~~budget agency~~
 18 **authority** may, **with the consent of the Indiana bond bank, and**
 19 **shall, if directed to do so by the Indiana bond bank,** sell loans or
 20 evidences of other financial assistance and other obligations of ~~political~~
 21 ~~subdivisions~~ **participants** evidencing the loans or other financial
 22 assistance from the fund periodically at any price and on terms
 23 acceptable to the ~~budget agency~~ **authority**. Proceeds of sales under
 24 this section shall be deposited in the fund.

25 SECTION 25. IC 13-18-13-14 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) The ~~budget~~
 27 ~~agency~~ **authority** may pledge loans or evidences of other financial
 28 assistance and other obligations of ~~political subdivisions~~ **participants**
 29 evidencing the loans or other financial assistance from the fund to
 30 secure:

31 (1) other loans or financial assistance from the fund to or for the
 32 benefit of ~~political subdivisions~~ **participants**; or

33 (2) other loans or financial assistance from the supplemental fund
 34 to or for the benefit of ~~political subdivisions~~ **participants**;
 35 to the extent permitted by the federal Clean Water Act.

36 (b) The ~~budget agency~~ **authority** must approve the terms of a
 37 pledge under this section.

38 (c) Notwithstanding any other law, a pledge of property made by the
 39 department and the budget agency under this section or IC 4-23-21-8(e)
 40 (before its repeal) **or a pledge of property made by the authority**
 41 **under this section** is binding from the time the pledge is made. **Any**
 42 **pledge of property made by the department and the budget agency**

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under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; ~~or~~
- (3) the fund; **or**
- (4) the authority;**

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~; **authority.**

(e) Action taken to:

- (1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

SECTION 26. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan; as provided in section 10 of this chapter; the budget agency shall recommend and the state board of finance shall establish the following:~~

(1) ~~A base or subsidized interest rate that:~~

- ~~(A) would be payable by political subdivisions other than political subdivisions described in subdivision (2) or (3); and~~
- ~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.~~

(2) ~~A base reduced or more heavily subsidized interest rate, that:~~

~~(A) would be payable by political subdivisions whose median household incomes are:~~

- ~~(i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and~~
- ~~(ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and~~

~~(B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater~~



collection and treatment system:

- (3) A base zero (0) or most heavily subsidized interest rate that:
- (A) would be payable on loans made to political subdivisions whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and
 - (B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system:

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(b) The budget agency, authority, in recommending to the state board of finance setting the interest rate or parameters for establishing the interest rate on each loan, under section 10 of this chapter, shall take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the budget agency authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.

(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:

- (1) revenue bonds payable from and secured by political subdivisions; and
- (2) loan payments made by and loan payments made to political subdivisions:

It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program:

SECTION 27. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. The budget agency



authority shall require that a ~~political subdivision participant~~ receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision participant~~ to:

(1) operate and maintain the wastewater collection and treatment system; and

(2) pay the obligations of the system.

SECTION 28. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

(1) that is the custodian of money payable to a ~~political subdivision participant~~, other than money in payment for goods or services provided by the ~~political subdivision participant~~; and

(2) after written notice from the budget director that the ~~political subdivision participant~~ is in default on the payment of principal or interest on a loan or evidence of other financial assistance; may withhold payment of money from that ~~political subdivision participant~~ and pay over the money to the ~~budget agency authority~~ or the Indiana bond bank ~~as directed by the budget director~~, for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision participant~~ and payment to:

(1) the ~~budget agency authority~~; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 29. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. The ~~water pollution control board and the budget agency authority~~ may jointly adopt rules ~~under guidelines, without complying with IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement govern the administration of~~ this chapter.

SECTION 30. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the ~~budget agency authority~~ by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when



entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the ~~budget agency~~, **authority**, and the ~~budget agency authority~~ may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the ~~budget agency~~. **authority**.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the ~~department and the budget agency~~, **authority**, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

(1) the provisions of this section; nor

(2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 31. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to

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~~political subdivisions, participants,~~ the ~~budget agency authority~~ may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the federal Clean Water Act to or for the benefit of ~~political subdivisions, participants,~~ including using money in the fund or the supplemental fund to enhance the obligations of ~~political subdivisions participants~~ issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 5-1.5, **IC 13-17.5**, or another statute or a trust agreement or indenture as contemplated by ~~IC 13-18-13-2(c);~~ **section 2(e) of this chapter;** or

(ii) an account established within such a fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision participant~~ or for bonds issued by **the authority or** the Indiana bond bank, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by ~~political subdivisions participants~~ or of bonds issued by **the authority or** the Indiana bond bank.

(b) The ~~budget agency authority~~ may enter into any agreements with the Indiana bond bank or ~~political subdivisions participants~~ to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 32. IC 13-18-21-2, AS AMENDED BY P.L.132-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law. **The Indiana bond bank shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

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(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter; shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **Indiana bond bank** shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **Indiana bond bank** may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a participant;
- (4) the Indiana bond bank; ~~or~~
- (5) **the authority; or**
- (6) any person to which **the authority**, the department, the budget agency, or a participant is obligated, as provided in the trust agreement or indenture.

The ~~state board of finance~~ **Indiana bond bank** must approve any trust agreement or indenture before execution **and any disbursement from a fiduciary account or a trust agreement or indenture.**

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from ~~four percent (4%) of the other~~ **money allotted to the state under 42 U.S.C. 300j-12.**

(g) ~~All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.~~

(h) ~~Money in the fund does not revert to the state general fund at the end of a state fiscal year.~~

SECTION 33. IC 13-18-21-3, AS AMENDED BY P.L.132-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Money in the fund, **with the approval of the Indiana bond bank**, may be used to do the following:



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(1) Provide loans or other financial assistance to participants for the:

- (A) planning;
- (B) designing;
- (C) construction;
- (D) renovation;
- (E) improvement;
- (F) expansion; or
- (G) any combination of clauses (A) through (F);

for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.

(2) ~~Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.),~~ Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the ~~department and the budget agency shall~~ **authority may use up to** two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. ~~The department and the budget agency may jointly contract with a person or persons to provide the technical assistance.~~ Funds used under this subsection may not be used for enforcement actions.

(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana, to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the ~~budget agency and the department~~ **authority** shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority

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1 required by the state for the ~~budget agency and the department~~
 2 **authority** to ensure that all new community water systems and new
 3 nontransient, noncommunity water systems, as contemplated by the
 4 federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing
 5 operations after October 1, 1999, demonstrate technical, managerial,
 6 and financial capacity with respect to each federal primary drinking
 7 water regulation in effect on the date operations commence. ~~The~~
 8 ~~department has primary responsibility to carry out this subsection.~~

9 (e) This chapter does not require the ~~budget agency authority~~ to
 10 provide a loan or other financial assistance to any participant that
 11 would cause any bonds or other obligations issued to finance the
 12 program to lose their exemption from federal income taxation.

13 **(f) The authority may contract with the department, the budget**
 14 **agency, or any other entity or person for assistance in**
 15 **administering the program and the fund and in carrying out the**
 16 **purposes of this chapter.**

17 SECTION 34. IC 13-18-21-5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. The ~~department~~
 19 **authority** shall do the following:

20 (1) Manage all aspects of the program ~~except as provided by~~
 21 ~~section 6 of this chapter. and the supplemental program in~~
 22 **accordance with this chapter.**

23 (2) Be the point of contact in relations with the United States
 24 Environmental Protection Agency. ~~except as provided in section~~
 25 ~~6 of this chapter.~~

26 (3) Cooperate with the **department and the** budget agency in the
 27 administration and management of the program **and**

28 ~~(4) Cooperate with the budget agency in preparing and providing~~
 29 ~~program information.~~

30 ~~(5) Review~~ **(4) Ensure that** each proposed financial assistance
 31 agreement ~~to determine whether the agreement~~ meets the
 32 environmental and technical aspects of the program.

33 ~~(6)~~ **(5)** Periodically inspect project design and construction to
 34 determine compliance with the following:

35 (A) This chapter.

36 (B) The federal Safe Drinking Water Act (42 U.S.C. 300f et
 37 seq.).

38 (C) Construction plans and specifications.

39 ~~(7) (6)~~ Negotiate ~~jointly with the budget agency~~; the negotiable
 40 aspects of each financial assistance agreement.

41 ~~(8) If not accepted and held by the budget agency; Accept and~~
 42 ~~hold any letter of credit from the federal government~~ **(7) Manage**

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any payment system through which the state receives grant payments from the federal government for the program and disbursements to the fund.

~~(9)~~ (8) Prepare jointly with the budget agency, annual reports concerning the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

~~(10)~~ (9) Submit the reports prepared under subdivision ~~(9)~~ (8) to the governor, and the general assembly.

~~(11)~~ Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:

- ~~(A)~~ The fund.
- ~~(B)~~ The program.
- ~~(C)~~ The supplemental fund.
- ~~(D)~~ The supplemental program.

the Indiana bond bank, the budget committee, and the legislative services agency.

(10) Be the point of contact with participants and other interested persons in preparing and providing program information.

(11) Prepare or cause to be prepared each financial assistance agreement.

(12) Execute each financial assistance agreement.

(13) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

SECTION 35. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. The budget agency authority may do the following:

- (1) Employ:
 - (A) fiscal consultants;
 - (B) engineers;
 - (C) bond general counsel;
 - (D) special counsel;
 - (E) accountants; and
 - (F) any other consultants, employees, and agents;
- that the budget agency authority considers necessary to carry out



the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:

(A) available in the fund; or

(B) otherwise made available for the program.

(3) Enter into memoranda of understanding with the department, the Indiana bond bank, and the budget agency concerning the administration and management of the fund and the program.

(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.

SECTION 36. IC 13-18-21-8, AS AMENDED BY P.L.132-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

~~(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2) (1) charge a fee for services provided; (b) The department and the budget agency may and~~

(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.

~~(c) (b) A political subdivision participant~~ **may pay fees charged under this section.**

SECTION 37. IC 13-18-21-9, AS AMENDED BY P.L.132-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. ~~(a) The department authority shall use a priority ranking system to recommend in making loans or other financial assistance from the fund. The department authority shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).~~

~~(b) Based on the recommendations made under subsection (a); the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.~~

SECTION 38. IC 13-18-21-10, AS AMENDED BY P.L.132-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The ~~budget agency~~ **authority** may make loans

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or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for planning, designing, constructing, renovating, improving, and expanding public water systems, **for any purpose eligible for assistance under the federal Safe Drinking Water Act**, and for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3) (2)~~ The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

~~(4) (3)~~ Notwithstanding any other law, the ~~budget agency~~ **authority** may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 39. IC 13-18-21-11 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by ~~the budget agency~~
IC 5-1.5-4 and IC 5-1.5-8.

(2) Unless otherwise provided by ~~rule~~, **the guidelines agreed to by the authority and the Indiana bond bank**, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 40. IC 13-18-21-13, AS AMENDED BY P.L.132-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. The ~~budget agency~~ **authority** may, **with the consent of the Indiana bond bank, and shall, if directed to do so by the Indiana bond bank**, sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency~~ **authority**. Proceeds of sales under this section shall be deposited in the fund.

SECTION 41. IC 13-18-21-14, AS AMENDED BY P.L.132-1999, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;



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to the extent allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made **by the department and the budget agency under this section, or a pledge of property made by the authority** under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and **thereafter** received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; ~~or~~
- (3) the fund; **or**
- (4) the authority;**

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority**.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 42. IC 13-18-21-15, AS AMENDED BY P.L.132-1999, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)); as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

~~(1) A base or subsidized interest rate that:~~

~~(A) would be payable by participants other than participants described in subdivision (2) or (3); and~~

~~(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.~~



(2) A base reduced or more heavily subsidized interest rate that:

(A) is payable by a participant with median household incomes that are:

(i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and

(ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and

(B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.

(3) A base of zero (0) or the most heavily subsidized interest rate that:

(A) would be payable on loans made to participants with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and

(B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.

The authority shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(b) The budget agency, authority, in recommending to the state board of finance setting the interest rate or parameters for establishing the interest rate on each loan, (including all loans to participants that are not political subdivisions) under section 10 of this chapter, may take into account the following:

(1) Credit risk.

(2) Environmental, water quality, and health protection.

(3) Affordability.

(4) Other fiscal factors the budget agency authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans made or other financial assistance to different participants in the same interest rate category.

(c) In financing the program, the Indiana bond bank, and the Indiana development finance authority shall issue at the budget agency's



request:

(1) revenue bonds payable from and secured by participants; and

(2) loan payments made by and to participants.

The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program. **or for different loans or other financial assistance to the same participants.**

SECTION 43. IC 13-18-21-16, AS AMENDED BY P.L.132-1999, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. The ~~budget agency~~ **authority** shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

(1) operate and maintain the public water system; and

(2) pay the obligations of the public water system.

SECTION 44. IC 13-18-21-17, AS AMENDED BY P.L.132-1999, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank ~~as directed by the budget director,~~ for the purpose of curing a default. ~~Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.~~

(b) The withholding of payment from the participant and payment to:

(1) the ~~budget agency;~~ **authority;** or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 45. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may jointly adopt ~~rules under guidelines, without complying with IC 4-22-2, including emergency rules under IC 4-22-2-37.1;~~ to implement govern the

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1 **administration of this chapter.**

2 SECTION 46. IC 13-18-21-19 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) Notwithstanding
4 any other law, a political subdivision may borrow money under this
5 chapter by negotiating a loan or other financial assistance directly and
6 without complying with requirements for the competitive sale of bonds,
7 notes, or other obligations or evidences of indebtedness. A political
8 subdivision shall observe any existing contractual commitments to
9 bondholders or other persons when entering into a financial assistance
10 agreement.

11 (b) Notwithstanding any other law, a political subdivision may issue
12 and sell notes, the principal and accrued interest on which shall be paid
13 with proceeds from the issuance of bonds or other available money at
14 the time the notes are due. The notes must be issued under a resolution
15 or ordinance and the proceeds must be used to carry out the purposes
16 specified in this chapter.

17 (c) A political subdivision that issues notes under subsection (b)
18 may renew or extend the notes periodically on terms agreed to with the
19 ~~budget agency, authority, and the budget agency authority~~ may
20 purchase and sell the renewed or extended notes. Accrued interest on
21 the date of renewal or extension may be paid or added to the principal
22 amount of the note being renewed or extended.

23 (d) The notes issued by a political subdivision under subsection (b),
24 including any renewals or extensions, must mature:

25 (1) in the amounts; and

26 (2) at the times not exceeding four (4) years from the date of
27 original issuance;

28 that are agreed to by the political subdivision and the ~~budget agency-~~
29 **authority.**

30 (e) Compliance with subsection (b) constitutes full authority for a
31 political subdivision to issue notes and sell the notes to the ~~department~~
32 ~~and the budget agency, authority,~~ and the political subdivision is not
33 required to comply with any other law applicable to the authorization,
34 approval, issuance, and sale of the notes. The notes are:

35 (1) valid and binding obligations of the political subdivision;

36 (2) enforceable in accordance with the terms of the notes; and

37 (3) payable solely from the sources specified in the resolution or
38 ordinance authorizing the issuance of the notes.

39 (f) If the political subdivision issues bonds, all or part of the
40 proceeds of which will be used to pay notes issued under subsection
41 (b), the:

42 (1) provisions of this section; or

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(2) actual issuance by a political subdivision of notes under subsection (b);
do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 47. IC 13-18-21-20, AS AMENDED BY P.L.132-1999, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the ~~budget agency~~ **authority** may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 5-1.5, **IC 13-17.5**, or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank ~~or the Indiana development finance authority~~ if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by participants; or

(B) bonds issued by the Indiana bond bank. ~~or the Indiana development finance authority.~~

(b) The ~~budget agency~~ **authority** may enter into any agreements with the Indiana bond bank ~~the Indiana development finance authority~~, or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 48. IC 13-18-21-22, AS AMENDED BY P.L.132-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. (a) The supplemental drinking water and



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wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of ~~(1)~~ participants for the purposes described in section 23(1) ~~of this chapter;~~ and ~~(2) political subdivisions for the purposes described in section 23(2) of this chapter.~~

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to **the authority**, the department, the budget agency, a participant, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The ~~state board of finance~~ **Indiana bond bank** must approve the form of any trust agreement or indenture before execution **and any disbursement from a fiduciary account or a trust agreement or indenture.**

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.



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SECTION 49. IC 13-18-21-23, AS AMENDED BY P.L.55-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. **(a) Subject to subsection (b),** money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants to ~~political subdivisions~~ **participants** for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(b) Not more than twenty-five percent (25%) of the financial assistance provided from the fund during each state fiscal year may be provided to participants that are not political subdivisions.

SECTION 50. IC 13-18-21-24, AS AMENDED BY P.L.132-1999, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 24. The ~~budget agency authority~~ shall develop criteria to ~~recommend~~ **make or provide** grants, loans, or other financial assistance from the supplemental fund.

SECTION 51. IC 13-18-21-25, AS AMENDED BY P.L.55-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. (a) The ~~budget agency authority~~ may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

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(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties**, reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the ~~budget agency~~ **authority** may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties**, reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A);** or

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(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The ~~budget agency~~ **authority** must establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 52. IC 13-18-21-26, AS AMENDED BY P.L.132-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency~~ **authority**.

(b) ~~Unless otherwise provided by rule,~~ **The authority may require that** a loan or other financial assistance ~~must~~ be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

SECTION 53. IC 13-18-21-28, AS AMENDED BY P.L.132-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the

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supplemental fund:

- (1) periodically;
- (2) at any price; and
- (3) on terms acceptable to the ~~budget agency~~ **authority**.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director~~ **authority**.

SECTION 54. IC 13-18-21-29, AS AMENDED BY P.L.132-1999, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

- (1) loans or evidences of other financial assistance; and
- (2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency~~ **authority**.

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the ~~department~~ **authority**;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority**.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 55. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002]: IC 13-18-13-4; IC 13-18-13-6; IC 13-18-21-4; IC 13-18-21-6.

SECTION 56. [EFFECTIVE JULY 1, 2002] (a) **On July 1, 2002, all powers, duties, agreements, and liabilities of the treasurer of**

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state, the department of environmental management, the budget agency, and the state board of finance with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the environmental assistance authority and the Indiana bond bank as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.

(b) On July 1, 2002, all records, money, and other property of the treasurer of state, the department of environmental management, the budget agency, and the state board of finance with respect to:

- (1) the wastewater revolving loan program established by IC 13-18-13-1;
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

are transferred to the environmental assistance authority and the Indiana bond bank, as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.

(c) After June 30, 2002, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.

(d) After June 30, 2002, any proposed rules amending 85 IAC 1, 85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before July 1, 2002, shall be treated as if they were withdrawn under IC 4-22-2-41.

SECTION 57. [EFFECTIVE JULY 1, 2002] (a) Notwithstanding IC 13-17.5-1-2, as added by this act, the initial terms of office of the five (5) members appointed by the governor to the board of directors of the environmental assistance authority are as follows:

- (1) Two (2) members shall serve a term of two (2) years.
- (2) Three (3) members shall serve a term of three (3) years.

(b) This SECTION expires July 1, 2006.

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